

## UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

ESTATE OF JOSE R. FELICIANO, )  
 By and through Jose L. Feliciano and )  
 Migdalia Rosado, as Administrators of )  
 The Estate of Jose R Feliciano, )  
 Plaintiff )  
 vs. )  
 )  
 KEVIN A. MILES, )  
 LEROY HOLDING COMPANY, INC., )  
 and SLC TRANSPORTS, INC., )  
 Defendants )

Civil No. 03-30.308-MAP

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION IN LIMINE**  
**REGARDING PHOTOGRAPHS NUMBERED 93 THROUGH 95**

The Plaintiffs hereby oppose the Defendants' Motion in Limine seeking to preclude entry into evidence of the photographs numbered 93 through 95 which depict handwritten notes of the decedent, Jose R. Feliciano. In response the Plaintiffs state the following:

The defendants' motion references photographs; however, the plaintiffs do not intend to introduce photographs of these notes. Instead, the original notes will be introduced. The references to numbered photographs in the defense motion actually are references to proposed exhibit numbers sent to the defendants by the plaintiffs in connection with drafting the pre-trial memorandum in this case. The exhibits were copied or scanned and sent to the defendants on a compact disc for review. The actual handwritten notes will be offered at trial.

With respect to the defendants' contention that the handwritten notes are hearsay, the proffered notes are admissible pursuant to FRE 803(3) which provides that statements of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will, are admissible. In other words, the notes are not being offered to prove the truth of the matters asserted therein, but rather are being offered to show the decedent's state of mind and intent.

The relevance of these notes to the case relate to the estate's claim of damages. The notes, attached hereto as Exhibit A, relate to the decedent's care, comfort and support of his parents. These are elements of the parents' claims for loss of consortium, and the notes are direct evidence of the closeness of this family and the caring that the decedent had for his parents because the notes show his state of mind as it relates directly to the caring of his parents.

Although no challenge to the authenticity of the notes has been made, should a challenge be made the notes will be authenticated through FRE 901(b)(2).

WHEREFORE, the plaintiffs hereby request this Honorable Court to deny the defendants' Motion in Limine Regarding Photographs Numbered 93 Through 95.

Respectfully submitted,  
By the Plaintiff,  
**The Estate of Jose R. Feliciano**

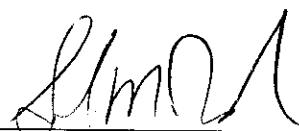
  
\_\_\_\_\_  
Samuel M. Radner, Esq.  
The Haymond Law Firm, P.C.  
999 Asylum Avenue  
Hartford, CT 06105  
(860) 728-5672  
BBO # 565988  
Plaintiffs Attorneys

Dated: 4/25/05

**CERTIFICATION**

I, Samuel M. Radner, Esquire hereby certify that a copy of the foregoing was mailed postage pre-paid to the following counsel and pro se parties of record on April 25, 2005:

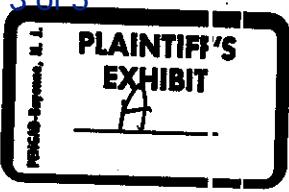
Kevin G. Murphy, Esquire  
Pessalano, Dusel, Murphy & Casartello, P.C.  
115 State Street, 5th Floor  
Springfield, MA 01103

  
\_\_\_\_\_  
Samuel M. Radner, Esquire

My father has been their for me for since the day I was born, I've always been around him since I learned to walk. I remember the days when I used to wash the car with him. And we used to drive around in the Gold Tropic. I remember I use to love driving around with my dad. I use to ask if I could go with him every time he left the house. Whether to a friend's house, work, to the store or ~~anywhere~~. It didn't matter what my father was doing. I'd like to that I was with him. I'd like to say that I'd listen to every word my dad told me. As my 18th birthday nears, I'd like to say that I made my dad proud. I'm going to graduate in the top of my class. I ~~had~~ joined the service just like he wanted me to. His friends congratulated him on the work he's

done with my sister and myself. The one that I hate about my father is his drinking and other habits. My father's life has been retired and his body is deteriorating because of it. Some day I wonder if he'll live to see the next year. I'm scared to live because I have a feeling that I won't see him again. I'm hoping that won't happen. I want him to live long enough to see my ~~the~~ wedding and one of my ~~the~~ own children. These things won't happen for several years. I just hoping he'll be around, because even though I don't show it, I do love him. I've learned so much from him and I know I can learn so much more.

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A  
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A



### House Buying Investment Plan

Eden: Buy two/three family house <sup>Duplex</sup> ~~the land~~ Pay them off. Buy another two/three family house, then buy ~~house~~ for the family. (Metsoo/park) Have enough money to sent my parent to FL. To retire or say here and retire. Cost of house \$80,000-\$120,000.

Start up money (Estimated) \$10,000-\$12,000. about 1,000-5,000 down payment, \$5,000 to the house for things need to be fixed.

House: Two /Three family house <sup>Duplex</sup> ~~2-3BR~~ each. HW we'll pay. Stove will be provided, we want ~~new~~ <sup>new</sup> Boiled/Heater, or ~~present~~ ones. Cost. ~~300~~ <sup>new</sup> ~~300~~ <sup>new</sup> ~~300~~ <sup>new</sup> we want \$600, 1st month, \$100 holders fee (will go towards 1st month's Rent) non-refundable. ~~Washer~~ <sup>of forewriter</sup> Dryer will be provided also. Storage in Basement. If ~~house~~ Garage extra want to park ~~car~~ <sup>of forewriter</sup> Extra \$40. month.

GROSS Income for 1st house (2 family house) 1st floor (Mayfield) - \$400 ~~morgage~~ /Investment 2nd Flr For Rent. \$600 monthly \$600 security.

All will go into ~~the~~ checking account for ~~morgage~~, Bills, or Emergencies. Start account with \$2000 In Bank, add \$600 security, \$1,000 a month for Rent. In 12 month Period we should Gross 12,000, Should have \$14,600 In the Bank for HW. Bill ~~credit~~ card Bills, ~~morgage~~ ~~card~~ for emergencies and to buy Stove/Heater/washer/dryer. ~~★~~ Account for Business ~~Emergency~~ only no personal use unless for ~~another~~ investment or ~~forewriter~~

The loan: Papote (front man), Backed up by Wiso & Party (and others) ~~we~~ We are all taking the loan, ~~we~~ accountable for all finances. Loan will be about \$80,000-\$120,000. We want the loan of 10 yrs - 15 yrs. Interest of ~~15%~~ or lower if possible.

Truck Investment.

Idea: Buy a ~~1/2~~ pickup truck with plow in the  
Price Range of \$10,000, - \$15,000.

Truck: Use for winter, ~~rainy~~, plowing. Charge ~~\$20-50~~  
for plowing service. Will plow, ~~driveway~~, ~~sidewalk~~ way. Put  
salt down for driveway sidewalks. Also for personal ~~use~~ for friend  
family. Can contact to plow the city.

GROSS Income: (about 4 month period of snow) 6-8 times. ~~about~~ 6-8 clients.  
each \$50 every time. \$1600-\$3200 estimated Income.